

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

LEO BIRDSALL and QI-PENG BIRDSALL,

Defendants.

CASE NO. CR06-284C

ORDER

This matter comes before the Court on Defendant Leo Birdsall's Motion to Continue Motions Cutoff Date and Trial Date (Dkt. No. 18).

The current Motions Cutoff Deadline is September 13, 2006 and the current trial date is October 10, 2006. Defendant Qi-Peng Birdsall has joined in the requested continuance (Dkt. No. 22) and the Government agrees that a continuance is necessary to allow Defendants to prepare for trial, because not all discovery has been received by the parties. Defendants have waived speedy trial rights through December 31, 2006 (Dkt. Nos. 20, 21).

The Court finds that a denial of the requested extensions would unreasonably deny Defendants adequate preparation by their attorneys and would deny counsel reasonable time to prepare. Due to these factors, exclusion of additional time under 18 U.S.C. § 3161(h)(8)(B)(iv) is appropriate, taking into

1 account the exercise of due diligence.

2 The proposed continuance of the trial does not appear to prejudice any party. The Court finds  
3 that failure to grant the requested continuance likely would result in a miscarriage of justice. The Court  
4 further finds that the interests of the public and the Defendants in a speedy trial in this case are  
5 outweighed by the ends of justice, within the meaning of 18 U.S.C. § 3161(h)(8)(A).

6 Accordingly, IT IS HEREBY ORDERED that the pre-trial motions cut-off date shall be extended  
7 to October 26, 2006, with a new trial date of December 4, 2006. Voir Dire, Trial Briefs and Jury  
8 Instructions shall be due by November 30, 2006. The time between the date of this Order and the new  
9 trial date shall be excludable time under the Speedy Trial Act pursuant to 18 U.S.C. §§ 3161(h)(8)(A)  
10 and 3161(h)(8)(B)(iv) as to both Defendants.

11 Defendant Leo Birdsall's Motion (Dkt. No. 18) is GRANTED. The pending motion to continue  
12 only the pretrial motions date (Dkt. No. 17) is STRICKEN as moot.

13 SO ORDERED this 25<sup>th</sup> day of September, 2006.

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16 John C. Coughenour

17 United States District Judge  
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